

Title 12: CONSERVATION
Chapter 927: GUIDES AND YOUTH CAMP TRIP
LEADERS HEADING: PL 2003, c. 414, Pt. A, §2 (new);
Pt. D, §7 (aff); c. 614, §9 (aff); PL 2009, c. 211. Pt. B, §33

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Maine Revised Statutes

Title 12: CONSERVATION

Chapter 927: GUIDES AND YOUTH CAMP TRIP

**LEADERS HEADING: PL 2003, c. 414, Pt. A, §2 (new);
Pt. D, §7 (aff); c. 614, §9 (aff); PL 2009, c. 211. Pt. B, §33**

§12851. COMMISSIONER'S AUTHORITY TO ADOPT RULES

The commissioner shall, with the advice and consent of the Advisory Board for the Licensing of Guides, adopt rules necessary to administer this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner shall establish safety standards to provide the clients of guides reasonable protection from hazards. The commissioner may adopt rules in the following areas. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §314 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

1. Alcohol; drugs. The commissioner may require applicants to state whether they use alcohol or other drugs in a way that would interfere with their competence as guides.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Failure to meet party. The commissioner may require applicants who have previously held a guide license to state that they have not received and retained a guiding fee from a party and then failed to meet that party as agreed or failed to provide the services as agreed.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Competency. The commissioner may establish standards of competency that must be provided to each applicant.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Watercraft. The commissioner may establish standards for the use of watercraft by a guide to ensure that the watercraft is safe for the use intended, that sufficient safety equipment is provided to each passenger and that the operator is competent to use watercraft.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Classification. The commissioner may establish classifications of guide licenses, including general guides and specialized categories.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

6. Other. The commissioner may establish rules in any area as the commissioner considers necessary to administer this chapter, except that the commissioner may not require an applicant to demonstrate certification in cardiopulmonary resuscitation.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B314 (AMD). 2003, c. 655, §B422 (AFF).

§12852. RULE VIOLATIONS; LICENSED GUIDES AND TRIP LEADERS

The following penalties apply to violations of rules regulating licensed guides or youth camp trip leaders and course instructor certificates. [2009, c. 211, Pt. B, §8 (AMD).]

1. Civil. Notwithstanding section 10650, a person who violates a rule regulating licensed guides or youth camp trip leaders and course instructor certificates commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2009, c. 211, Pt. B, §9 (AMD) .]

2. Criminal. A person who violates a rule regulating licensed guides or youth camp trip leaders and course instructor certificates after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2009, c. 211, Pt. B, §10 (AMD) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B315 (RPR). 2009, c. 211, Pt. B, §§8-10 (AMD).

§12853. LICENSE, FEES AND REQUIREMENTS; YOUTH CAMP TRIP LEADER EXCEPTION

1. Prohibition. Except as provided in subsection 7, a person may not act as a guide without a valid license issued under this chapter.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §316 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Penalty. A person who violates subsection 1 commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of 3 days, none of which may be suspended. The court shall also impose a fine of \$1,000, none of which may be suspended. A person violates subsection 1 each day that person acts as a guide without a valid license issued under this chapter.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §316 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. New applications. A person wishing to be licensed as a guide shall submit an application to the commissioner.

A. The commissioner shall provide application forms that request all relevant information the commissioner considers necessary. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Failure or refusal to satisfactorily answer any question in the application is a basis for the commissioner not to accept the application. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. The commissioner shall decide whether the application is acceptable within 5 working days of receipt. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. The commissioner shall notify each applicant at least 2 weeks prior to the examination required under section 12855. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Qualifications. In order to qualify for a guide license, a person must:

- A. Be at least 18 years of age; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- B. Pass the guide examination in accordance with section 12855; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- C. If a first-time applicant, be currently certified in first aid through completion of any standard first aid course that meets the criteria established by rule of the commissioner; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- D. If not a first-time applicant, submit satisfactory evidence, as determined by the commissioner, of having held a guide license in this State; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- E. Meet all requirements established by rules of the commissioner. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

For purposes of this subsection, "first-time applicant" means an applicant who has not previously been issued a guide license in this State.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Fee. The fee for a 3-year guide license is \$81.

[2005, c. 12, Pt. III, §30 (AMD) .]

6. Term of license. A guide license entitles a person to act as a guide through December 31st of the 2nd complete year following the year of issuance.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

7. Exception. A person holding a youth camp trip leader permit under section 12860 may, without a guide license, conduct trips including adults under the auspices of the youth camp that employs those adults, subject to all the requirements of section 12860.

[2009, c. 211, Pt. B, §11 (AMD) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B316 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 12, §III30 (AMD). 2009, c. 211, Pt. B, §11 (AMD).

§12854. GUIDES CARRYING PASSENGERS FOR HIRE

A guide carrying passengers for hire must be certified in the area of watercraft safety. A guide who has been certified in watercraft safety through the guide license examination process is authorized, without further licensing requirements, to operate a motorboat carrying passengers for hire pursuant to section 13063, subsection 2. A guide license issued to a guide who has been certified in watercraft safety must clearly indicate that the licensee is authorized to operate a motorboat carrying passengers for hire. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12855. EXAMINATION

1. Requirement. In order to qualify for a guide license, a person who has not held a valid guide license within the previous 3 years must pass an examination pursuant to this section.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Form. The commissioner shall determine the form and content of the examination.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Location. The commissioner shall designate locations where the examination will be held, except the examination must be held in one of the Inland Fisheries and Wildlife regions if at least 10 applicants reside in that region.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Reexamination. The commissioner may require a guide to be examined or reexamined if the commissioner receives a written complaint and, upon investigation, believes that the guide no longer meets the guide qualifications.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Fee. The examination fee is \$100. An applicant may retake the examination once without paying an additional fee. The fee is nonrefundable.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

6. Oral examination. If an oral examination is administered, the examination must be conducted by at least 2 trained examiners designated pursuant to section 10153, subsection 2, paragraph D who are approved by the commissioner or members of the Advisory Board for the Licensing of Guides.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12856. APPROVED CURRICULUM FOR LICENSED MAINE GUIDES

The commissioner shall approve a curriculum designed to prepare persons for the guide examinations. This curriculum must cover practical skills, fisheries and wildlife laws and other aspects important for the guiding profession. The commissioner shall convene an ad hoc advisory board, as defined under Title 5, section 12008, to develop the curriculum. Nonagency members must be compensated according to Title 5, chapter 379. The commissioner also shall consult with the Department of Education in developing the curriculum. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12857. HIRING GUIDE

1. Prohibition. A person may not hire another person as a guide if the hiring person has knowledge that the person does not hold a valid guide license.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §317 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates subsection 1 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §317 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §317 (RPR) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B317 (AMD). 2003, c. 655, §B422 (AFF).

§12858. GUIDE LICENSE VIOLATIONS

1. Guide license violations. A person licensed as a guide may not violate the following provisions.

A. A person licensed as a guide may not knowingly assist a client in violating any of the provisions of this Part.

(1) If the violation committed by the client is a civil violation, a person licensed as a guide who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) If the violation committed by the client is a civil violation, a person licensed as a guide who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

(3) If the violation committed by the client is a criminal violation, a person licensed as a guide who violates this paragraph commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RPR).]

B. A person licensed as a guide who has knowledge that a client has violated the provisions of this Part shall, within 24 hours, inform a person authorized to enforce this Part.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RPR).]

C. A person licensed as a guide may not take a party of more than 12 people out on any lake, stream or waterway in the State at any time.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RPR).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RPR) .]

2. Civil violations.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RP) .]

3. Criminal violations.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §318 (RP) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B318 (RPR).

§12859. JUNIOR MAINE GUIDES

1. Eligibility. To qualify as a junior Maine guide, a person must be at least 14 years of age and under 18 years of age, meet the requirements established by the commissioner and pass the required examinations.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Restrictions. A junior Maine guide is not authorized to provide guiding services.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12860. YOUTH CAMP TRIP LEADER PERMIT

1. When permit required. Youth camps licensed by the Department of Health and Human Services under Title 22, section 2495, or located in another state and licensed in a similar manner, if the laws of the other state so require, conducting trip camping shall:

A. Provide at least one staff member over 18 years of age for each 6 campers; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Ensure that the staff member in charge of the trip holds a valid youth camp trip leader permit. [2009, c. 211, Pt. B, §12 (AMD).]

[2009, c. 211, Pt. B, §12 (AMD) .]

1-A. Prohibition. A person may not conduct trip camping under subsection 1 without a youth camp trip leader permit issued under this section. Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

[2009, c. 211, Pt. B, §12 (AMD) .]

2. Application. A person wishing a youth camp trip leader permit must submit an application on forms provided by the commissioner and pay the application fee.

[2009, c. 211, Pt. B, §12 (AMD) .]

3. Qualifications. To qualify initially for a youth camp trip leader permit, an applicant must:

A. Show successful completion of an approved youth camp trip leader safety course or complete an application provided by the commissioner outlining in detail the applicant's experience and training as a youth camp trip leader; and [2009, c. 211, Pt. B, §12 (AMD).]

B. Meet any other requirements established by rule by the commissioner. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2009, c. 211, Pt. B, §12 (AMD) .]

4. Special waiver. Waiver of the course requirement by the commissioner on the basis of the applicant's experience and payment of the application fee qualifies the applicant for a youth camp trip leader permit.

[2009, c. 211, Pt. B, §12 (AMD) .]

5. Curriculum. The commissioner shall review and adopt a youth camp trip leader safety course curriculum that includes, but is not limited to:

A. Training in first aid; [2009, c. 652, Pt. A, §16 (RPR).]

B. Training in water safety, including lifesaving techniques as appropriate; and [2009, c. 652, Pt. A, §16 (RPR).]

C. Youth camp trip leader qualifications and required experience for the special waiver procedure in subsection 4. [2009, c. 652, Pt. A, §16 (RPR).]

The commissioner shall publish the curriculum and a current list of courses, with the approved curriculum, by name and address.

[2009, c. 652, Pt. A, §16 (RPR) .]

6. Fee. The initial qualifying fee for a youth camp trip leader permit is \$20. The permit may be renewed upon payment of \$15 if requirements of the department are met.

[2009, c. 211, Pt. B, §12 (AMD) .]

7. Enforcement. Wardens of the department, the rangers of the Bureau of Forestry and rangers of the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands may enforce this section and may terminate any trip that is considered unsafe or in violation of this section. The commissioner shall adopt standards for what is considered an unsafe trip. The commissioner shall consider previous violations of this section when issuing or reissuing youth camp trip leader permits.

[2009, c. 211, Pt. B, §12 (AMD); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §§23, 24 (REV) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B319 (AMD). 2003, c. 655, §B422 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 12, §III31 (AMD). 2009, c. 211, Pt. B, §12 (AMD). 2009, c. 211, Pt. B, §12 (AMD). 2009, c. 369, Pt. A, §28 (AMD). 2009, c. 652, Pt. A, §16 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §§23, 24 (REV).

§12861. TRANSPORTATION OF GUIDE'S CLIENTS BY UNLICENSED PERSON **(REPEALED)**

Notwithstanding section 10001, subsection 28, a person licensed to guide hunters under this chapter may employ the services of a person not licensed as a guide to transport hunters along a public or private road in a motor vehicle for the sole purpose of delivering those hunters to a predetermined destination prior to or at the conclusion of the time those hunters are engaged in hunting. For purposes of this section, "motor vehicle" does not include a snowmobile or an all-terrain vehicle. [2009, c. 598, §1 (AMD).]

SECTION HISTORY

2007, c. 532, §1 (NEW). 2009, c. 598, §1 (AMD). MRSA T. 12, §12861, sub-§3 (RP).

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